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UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

In re:

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ZORAH MAE PHARES

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CASE NO. 12-12578-BFK

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(Chapter 7)

Debtor(s).

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TRUSTEE'S MOTION TO SELL PROPERTY OF THE ESTATE
(8078 Athena Street, Springfield, VA 22153)

Kevin R. McCarthy, Trustee, moves the Court for authorization to sell property of the Debtor pursuant to 11 U.S.C. § 363(b) and Federal Rule of Bankruptcy Procedure 6004(a)-(b) on the terms and conditions set forth in his Notice Of Intention To Sell Property Of The Estate filed simultaneously with this Motion, and to take any actions provided therein without further Order of the Court, namely:

PROPERTY FOR SALE: Debtor's real property located at 8078 Athena Street, Springfield, VA ("the Property").

LEGAL DESCRIPTION OF REAL PROPERTY FOR SALE: Lot 465, Section Six (6), NEWINGTON FOREST, as the same appears duly dedicated, platted, and recorded in Deed Book 4902 at Page 490, among the Land Records of Fairfax County, Virginia.

INTEREST BEING SOLD: Entire fee simple interest in the Property.

TYPE OF SALE: Private.

PRIVATE SALE PRICE: \$505,000. The sales contract is attached as Exhibit A to the Motion being filed simultaneously with this Notice.

APPRAISAL VALUE: \$530,000. Property has been marketed through MRIS. Property is tax-assessed at \$421,700.

BUYER: Paul Craft and Christina Craft.

TIME AND PLACE OF SALE: 15th day after Court approval or, if the Court waives the stay period under Federal Rule of Bankruptcy Procedure 6004(h), within three days of Court approval.

REALTORS: Trustee's listing agent is RE/MAX Allegiance; buyer's agent is Century 21 New Millennium.

COMPENSATION TO REALTORS: \$30,300, to be split equally between Trustee's listing agent RE/MAX Allegiance and buyer's agent Century 21 New Millennium (*i.e.*, \$15,150 each), which is 6% of the sale price. In addition, the Trustee's agent is advancing expenses not normally paid by a realtor for HOA documents, cleaning, utilities, and grass-cutting. These are expected to be less than \$1000 and will be reimbursed to the Trustee's agent at settlement.

LIENS: 1st mortgage held or serviced by Provident Bank, with an approximate payoff amount of \$135,000, and 2nd and 3rd mortgages held by Walter S. Cullen and Jo C. Brown, with payoffs totaling approximately \$200,000. These three mortgages will be paid in full at settlement. There is also a 4th mortgage held by Mr. Cullen and Ms. Brown with an approximate balance due of \$90,000, but it was recorded during the preference period and Mr. Cullen and Ms. Brown have agreed it can be treated as a preferential lien not payable out of sale proceeds, with the corresponding note payable only as an unsecured prepetition claim.

DEBTOR'S EXEMPTIONS: \$4.00.

TAX CONSEQUENCES TO ESTATE BY SALE: None. The Debtor and her husband Rex M. Phares bought the Property as tenants by the entirety for \$210,000 in 1997, and the Debtor resided in the Property as her home through March 2013. Mr. Phares died in 2011, which caused the Debtor to receive a stepped-up basis of \$202,895 for his half of the Property to go with the basis for her half of \$105,000. Based on this, the capital gain from the Trustee's sale is less than \$250,000. Therefore, the bankruptcy estate qualifies for the home sale capital gain exclusion.

NET SALE PROCEEDS ESTIMATED TO BE PAID TO ESTATE: The Trustee estimates that net sale proceeds, after payment of closing costs, realtor commissions, real estate taxes, and mortgage balances (and before payment of Trustee compensation, legal expenses, and any accounting expenses in connection with the sale, all of which will be sought at a later date), will be approximately \$135,000.

AUTHORIZATION TO SELL PROPERTY IN NAME OF PHARES FAMILY TRUST: The Property is owned by the Phares Family Trust, a revocable trust for which the Debtor is both sole surviving Grantor and sole surviving Trustee. Bankruptcy Schedule A acknowledges that the Property is owned "in name of the Phares Family Trust by Debtor." As a result, the Trustee is authorized to convey title to the Property in the name of the Debtor, the Phares Family Trust, or both, as deemed appropriate by the real estate settlement agent.

APPLICABILITY OF 11 USC § 363(m) AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 6004(h). Entry of an Order granting the Trustee's Motion will constitute a Court determination that the buyer is a good faith purchaser and that the Order be immediately effective.

Wherefore, the Trustee requests the Court to enter the attached proposed Order.

Respectfully submitted,

/s/ Kevin R. McCarthy
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CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of April, 2013 I served a copy of the foregoing, including the attached proposed Order, through the court's ecf system on all registered ecf participants who have appeared in this case.

/s/ Kevin R. McCarthy
Kevin R. McCarthy